IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

FRIDAY, THE 2ND NOVEMBER 2007 / 11TH KARTHIKA 1929

WA.No. 2507 of 2007

(AGAINST THE JUDGEMENT IN OP.8065/1996 Dated 30/05/2007)

APPELLANT/PETITIONER

M.J.CHACKO,
S/O GEORGE,
AGED 59 YEARS,
ASSISTANT TEA MAKER,
TALAMALA ESTATE,
VYTHIRI PLANTATION LTD.,
VYTHIRI P.O.,
VYTHIRI TALUK,
WAYNAD DISTRICT.

BY ADV. SHRI BABU MATHEW.
ADV. SRI.PHILIP MATHEW
ADV. SRI.N.A.ABHILASH

RESPONDENTS/RESPONDENTS
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1. MANAGING DIRECTOR,
VYTHIRI PLANTATION LTD.,
REGISTERED OFFICE,
VINAYAKA NAGAR,
MADURAI.

2. REGIONAL SECRETARY,
ESTATES STAFF UNION OF SOUTH INDIA,
VIJAYAKUMAR BUILDINGS,
SULTHAN BATHERY.

3. LABOUR COURT,
KANNUR.

BY SR. GOVERNMENT PLEADER SMT. K. MEERA.
BY ADV. SHRI ELVIN PETER.

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 02/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L. DATTU, C.J. & K.T. SANKARAN, J.

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W.A. No. 2507 OF 2007

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Dated this the 2nd November, 2007

J U D G M E N T

H.L. Dattu, C.J.:

Questioning the legality or otherwise of the orders passed by the learned single Judge in O.P.No. 8065 of 1996 dated 30th May, 2007, the petitioner in the Original Petition has presented this appeal.

2. By the impugned order, the learned single Judge while confirming the award passed by the Labour Court has rejected the Original Petition.

3. The appellant before us was a tea maker in the first respondent's tea industry. His service came to be terminated by the employer.

4. Conciliation proceedings were initiated and since there was failure of the conciliation proceedings, the conciliation officer had referred the matter to the State Government for appropriate orders and directions. The State Government, by its order dated 24.02.1990 had referred the dispute between the appellant and the management to the Labour Court for adjudication.

5. Before the Labour Court, a preliminary issue had been raised as to whether the domestic enquiry that was held by the employer/management is just, fair and proper. The Labour Court was of the opinion that the domestic enquiry that was held by the employer, was not just , fair and proper and was in violation of the principles of natural justice.

6. Aggrieved by the findings of the Labour Court on the preliminary issue raised by the workman, the management was before this court. The proceedings before this court culminated in a Writ Appeal. The Writ Appeal court was pleased to dispose of the Writ Appeal and further had permitted the management to lead its evidence, if any, in support of the allegations made in the charge memo.

7. After disposal of the Writ Appeal, the workman had adduced his evidence before the Labour Court.

8. The management had examined Shri V.V. Krishnamachari, V.G. Balakrishnan, Shri M.K. Balan, Shri A. Manikyam and Shri Saleh Muhammed Salim as M.Ws. 1 to 5 and in their examination, the management had marked nearly 58 exhibits in support of the allegations made in the charge memo.

9. The Labour Court, after appreciating the oral and documentary evidence on record, has passed an award holding that the termination of the workman is perfectly justified. However, taking a lenient view in the matter, has modified the punishment of dismissal into one of discharge and further has directed the management to pay a sum of Rs.5,000/- to the workman as a token of gratitude towards his past service. Aggrieved by the award so passed by the Labour Court, the workman was before this court in O.P.No. 8065 of 1996.

10. What was contended before the learned single Judge was that the findings of the Labour Court on the evidence on record is unsustainable. It only means that the findings of the Labour Court is perverse.

11. The learned single Judge, after going through the evidence on record, both oral and documentary and appreciation of the said evidence by the Labour Court, has come to the conclusion that the findings of the Labour Court, by no stretch of imagination, can be said as either arbitrary, perverse or capricious. Accordingly, has confirmed the award passed by the Labour Court. It is that order of the learned single Judge is the subject matter of this Writ Appeal.

12. Shri Babu Mathew, learned counsel appearing for the appellant/workman would submit that the orders passed by the learned single Judge is erroneous in the sense that the learned single Judge is not justified in coming to the conclusion that the findings of the Labour Court are not perverse. Therefore, requests us to annul the orders passed by the learned single Judge and grant the reliefs sought for by the appellant/workman.

13. The learned single Judge, while deciding the Original Petition filed before him has firstly taken into consideration, the fact that in a petition filed under Article 227 of the Constitution of India, a writ court can only look into the findings of the Labour Court and those findings can be interfered only if it is demonstrated that the findings and the conclusions reached by the Labour Court are wholly perverse.

14. Thereafter, the learned single Judge, after referring to the allegations made in the charge memo and the evidence that was adduced by both the parties to the lis, has come to the conclusion that the management has proved the charges alleged against the workman. From the judgment of

the learned single Judge, what we understand is that there were four charges against the workman. The first one was with regard to the action or inaction, said to have been committed by the workman in the quality of the tea manufactured in the factory. The allegation of the management is that by the action or inaction on the part of the workman, there was loss in quality of the tea manufactured and thereby, the management has suffered a heavy loss. The second charge against the workman is that as a tea maker and a person in charge of the tea unit, has allowed the workmen in the industry to violate the provisions of the Central Excise Act. Third charge against the workman appears to be that because of his negligence, the generator which was installed in the industry has been burnt and thereby, there was a breakdown in the manufacturing process. Lastly, the workman had remained unauthorisedly absent from the duty without leave.

15. In so far as the first charge is concerned, the learned single Judge has re-looked into the findings of the Labour Court and also the evidence on record in support of that allegation. The learned single Judge has come to the conclusion that the appellant being a tea maker and a person in charge of manufacture of tea in the unit, had not taken necessary steps in maintaining the quality of the tea manufactured by the respondent/industry. The learned Judge is of the opinion that the labour court after appreciating the evidence in this regard adduced by the management has rightly come to the conclusion that the first charge alleged against the workman has been proved without any iota of doubt. That only means, there is no perversity in the findings of the

labour court on this issue. Having come to this conclusion, in our opinion, the learned single Judge was justified in not interfering with the findings of the labour court.

16. In so far as the second allegation is concerned, the learned single Judge is of the opinion that the workman/appellant is responsible for despatching of the tea bags in violation of the Central Excise Act and thereby the management has incurred heavy loss and it had to pay more excise duty. In this regard also, the learned single Judge has looked into the findings and the conclusions reached by the Labour Court and has come to the conclusion that the Labour Court, is justified in coming to the aforesaid conclusion. Since even on this issue also the findings of the labour court is that the management by adducing proper and cogent oral and documentary evidence has proved the charge alleged against the workman. It is not the case of the learned counsel that there is no evidence in this regard. Therefore, we are of the view that the learned Judge is justified in holding that there is no perversity in the findings of the labour court on this issue also.

17. In so far as the third and fourth charges are concerned, again the learned single Judge has looked into the oral and documentary evidence on record and further has come to the conclusion that there is no perversity in the findings of the Labour Court even on these issues also. It is, time and again, stated by the Apex Court that a writ court in exercise of its jurisdiction under Article 227 of the Constitution of India can interfere with the findings of the Labour Court only if the award passed by the Labour Court is in violation of

the rules of natural justice or if it is perverse, not otherwise. In the present proceedings, the learned single Judge, after going through the evidence on record in detail and in depth, has come to the conclusion that the findings of the Labour Court, by no stretch of imagination, can be characterised either as perverse or capricious. Therefore, in our opinion, the learned single Judge has rightly rejected the Original Petition. Having gone through the award passed by the Labour Court once over again as well as the orders passed by the learned single Judge, we are of the opinion that neither the award passed by the Labour Court nor the orders of the learned single Judge can be construed as perverse which would call for our interference.

In view of the above discussion, in our opinion, the appellant has not made out a case for our interference. Accordingly, the Writ Appeal requires to be rejected and it is rejected.

Ordered accordingly.

H.L. DATTU,
CHIEF JUSTICE.

K.T. SANKARAN,
JUDGE.

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